



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 34860055

Date: NOV. 27, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner seeks classification as an individual of extraordinary ability. Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand this matter for the entry of a new decision consistent with the following analysis.

I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide

sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner is a water treatment specialist whose company provides services to resorts and other facilities in Turkey. He intends to continue his work in the United States.

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined that the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(iii) and (vi), which, respectively, relate to published material about the Petitioner and his authorship of scholarly articles. The Director concluded, however, that the Petitioner did not meet claimed criteria at 8 C.F.R. § 204.5(h)(3)(ii), (iv), (v), (viii), or (ix). On appeal, the Petitioner asserts that he meets the claimed criteria. We will not disturb the Director's determination that the Petitioner met the requirements of the criteria at (iii) and (vi), and we conclude that the Petitioner has also met the criteria at (v).

Evidence of the individual's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner submitted detailed letters from experts in his field and from former colleagues and clients discussing his work in Turkey, which includes the introduction of the country's first membrane bioreactor (MBR) wastewater treatment system. The letters describe technical challenges and solutions that the Petitioner applied to development of the system, which resulted in the municipality's ability to utilize previously unusable water for various private and public types of uses, including for drinking water, irrigation, and emergency services. The letters further explain how the Petitioner developed a solution for membrane tears in the system that remains in use nationwide for additional MBR systems that were developed following the Petitioner's oversight of the initial MBR installation. Expert opinion letters indicate that the Petitioner's introduction of the MBR treatment system was a notable improvement to previous wastewater treatment systems used in Turkey and the impact of his work can be measured beyond his companies and clients.

The letters also describe how the Petitioner's development of a pool operator training program local to one of Turkey's tourist regions led to the country's health and education ministries enactment of a required certification program based on the framework and content of the original. The record includes documentation showing that the Petitioner's company is credited with the initial iteration of the program, and the letters of support highlight the Petitioner's leading role in developing the program.

Obtaining this certification is now a legal requirement for the operation of pools in Turkey to maintain certain standards of pool water treatment—a requirement which contributes significantly to human health and safety in the country. We conclude that the Petitioner has established by a preponderance of the evidence that he made a contribution of major significance within the field of water treatment. Thus, the Petitioner has met the requirements of the criterion at 8 C.F.R. § 204.5(h)(3)(v).

III. CONCLUSION

The Petitioner has met the requisite three of ten initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(iii), (v), and (vi). We therefore need not consider whether he met additional claimed criteria at 8 C.F.R. § 204.5(h)(3)(ii), (iv), (viii), or (ix).

We will withdraw the Director's denial of the petition and remand the matter for further review and entry of a new decision. The Director may request any additional evidence considered pertinent to the new determination and any other issues. As such, we express no opinion regarding the ultimate resolution of this matter on remand. On remand, the Director should conduct a final merits review of the evidence of record. The new decision should include an analysis of the totality of the evidence evaluating whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, his status as one of the small percentage at the very top of his field of endeavor, and that his achievements have been recognized in the field through extensive documentation. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.